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# JUDGEMENTOPEDIA

*(Learning Judgements For A Living)*

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Jyostnamayee Mishra Vs. The State Of Odisha  
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A.K. Chopra  
[(1999) 1 SCC 759]





# **Whether appointments made without following the statutory recruitment rules can confer any enforceable right on other employees under Article 14 of the Constitution?**

**CONTEXT:** The Petitioner, working as a Peon since 1978, filed a representation and multiple subsequent applications before the Orissa Administrative Tribunal seeking appointment/promotion to the post of Tracer. The Tribunal eventually directed the State to promote/appoint her. This direction was challenged by the State, and the High Court set aside the Tribunal's order. The fundamental issue was the State's consistent failure across three rounds of litigation to present the correct statutory rules (Orissa Subordinate Architectural Service Rules, 1979), leading to confusion regarding whether the post of Tracer was promotional or filled by direct recruitment.

① The Special Leave Petition was dismissed, upholding the order of the High Court. The court determined that the Petitioner's claim lacked merit because the post of Tracer was mandated to be filled 100% by way of direct recruitment under the 1979 Rules.

② Furthermore, any prior appointments or promotions of Peons to the post of Tracer were made in violation of the Rules and, therefore, constituted illegalities.

③ The principle of negative equality dictated that the Petitioner could not demand the continuation or perpetuation of such illegality, as Article 14 did not confer a legal right to receive a benefit granted inadvertently or by mistake.

**JYOSTNAMAYEE  
MISHRA VS. THE  
STATE OF ODISHA AND  
ORS.  
[2025 INSC 87]**

**RULES 5(1)(e), 7 OF  
THE ORISSA  
SUBORDINATE  
ARCHITECTURAL  
SERVICE RULES, 1979**

**ARTICLES 14 AND 16 OF  
THE CONSTITUTION OF  
INDIA**

# Is the Rajasthan Notification dated 09.03.2007, granting Value Added Tax (VAT) exemption on certain in-state goods, discriminatory under Article 304(a) by disadvantaging similar goods from outside the State?

**M/S. U.P. ASBESTOS  
LIMITED VS. STATE OF  
RAJASTHAN &  
OTHERS**  
**[2025 INSC 1154]**

**CONTEXT:** The appellants, manufacturers and sellers of fly ash based asbestos cement products, operate sales depots in Rajasthan but do not have manufacturing units there. They challenged the validity of Notification No. S.O. 377, dated 09.03.2007, which exempted the payment of VAT on the sale of asbestos cement sheets and bricks manufactured within the State of Rajasthan, provided they contained 25% or more fly ash by weight and met certain commercial production deadlines (e.g., commenced by 31.12.2006). The appellants argued that this notification constituted unfavourable discrimination, impeding the free movement of trade. The High Court had dismissed their writ petitions relying on the reasoning in ***Video Electronics Pvt. Ltd. vs. State of Punjab* [2 SCR 731]**.

1 The Civil Appeals were allowed. The Supreme Court overturned the High Court's decision and quashed the impugned Notification dated 09.03.2007. The rationale was that the notification violated Article 304(a) of the Constitution by being discriminatory. The tax exemption was not conditioned upon the utilisation of fly ash sourced from within Rajasthan, which resulted in discrimination between similar asbestos products manufactured locally and those imported and sold within the State.

2 Furthermore, the exemption did not satisfy the limited and specific conditions laid down in precedents such as ***Video Electronics Pvt. Ltd. vs. State of Punjab* [2 SCR 731]**. Any subsequent justifications advanced by the State in its counter-affidavit were disregarded, as the Court reaffirmed the settled principle in ***Mohinder Singh Gill Vs. Chief Election Commissioner* [(1978) 1 SCC 405]** that public orders must be judged solely on the reasons stated therein.

3 Accordingly, the Supreme Court held the notification to be unconstitutional, discriminatory, and unsustainable in law.

**ARTICLES 301 AND  
304(a) OF THE  
CONSTITUTION INDIA**  
**SECTION 8(3) OF THE  
RAJASTHAN VALUE  
ADDED TAX ACT, 2003**



**Whether a long-term "live-in relationship" between an unmarried adult woman and a married adult male, wherein the woman was aware of the subsisting marriage, constitutes a "relationship in the nature of marriage" under Section 2(f) of the Protection of Women from Domestic Violence Act, 2005?**

**INDRA SARMA VS.  
V.K.V. SARMA  
[(2013) 15 SCC 755]**

**CONTEXT:** The Appellant and Respondent developed intimacy while working together and lived together in a shared household from 1992 onwards. The Respondent was married and had two children, a fact known to the unmarried Appellant. The relationship lasted approximately 18 years. The relationship was opposed by the Respondent's wife and the Appellant's family. When the Respondent left the Appellant without providing maintenance, she filed an application under Section 12 of the DV Act seeking various reliefs, including monthly maintenance of Rs. 25,000. The Magistrate and the Appellate Court granted relief, but the High Court subsequently set aside those orders.

1 The appeal was dismissed, thereby upholding the judgment of the High Court. The Supreme Court concluded that the relationship between the Appellant and the Respondent was not a "relationship in the nature of marriage."

2 Since the Appellant had known that the Respondent was already married, the relationship was adulterous and bigamous, and thus lacked the inherent characteristics of a legal marriage, such as exclusivity and being monogamous. Her status was deemed that of a concubine or mistress, and such a relationship did not fall within the definition of "domestic relationship" under Section 2(f) of the DV Act.

3 The Court also noted that recognising this relationship would have caused injustice to the legally wedded wife and children.

**SECTIONS 2(f), 3  
AND 12 OF THE  
PROTECTION OF  
WOMEN FROM  
DOMESTIC VIOLENCE  
ACT, 2005**

**APPAREL EXPORT  
PROMOTION COUNCIL  
VS. A.K. CHOPRA  
[(1999) 1 SCC 759]**

**ARTICLE 21 OF THE  
CONSTITUTION OF  
INDIA**

**Does a superior's act violating a female employee's decency and modesty without physical contact constitute sexual harassment, and did the High Court err in interfering with the departmental findings and punishment?**

**CONTEXT:** The respondent, a superior officer, was accused of attempting to molest Miss X, a subordinate female employee, by repeatedly making unwelcome sexual advances, trying to sit too close to her, and attempting to touch her in secluded places at a hotel, despite her objections. The departmental authorities found the charges of acting against moral standards, decency, and modesty to be proven, leading to the respondent's removal from service. The High Court subsequently interfered, holding that since the respondent had only "tried to molest" and had not made physical contact, dismissal was not warranted, and directed his reinstatement.

1 The appeal was allowed, and the High Court's impugned order was set aside. The Supreme Court upheld and reinstated the respondent's punishment of removal from service.

2 The Court held that physical contact is not a necessary element of sexual harassment. The respondent's conduct amounted to unwelcome, sexually motivated behaviour, harassment, and an attempt to outrage the modesty of a female employee-acts that are incompatible with her dignity and honour.

3 Additionally, the High Court erred in exercising its appellate jurisdiction by re-evaluating the evidence and substituting its own view on the punishment, despite the departmental findings being reasonably supported by evidence and not perverse.